

From: "Robert J. Isakson" <risakson@drcusa.com>  
To: "P.P.S.O. - Sheriff Jiff Hingle" <sheriff@ppso.net>  
Cc: "Sharpe, Kip, Esq." <ksharpe@drcusa.com>; "La. - Mike Sherman, Esq." <sherman@sapirsherman.com>; "P.P.S.O. - Major Brandon Mouriz" <bmouriz@ppso.net>; "DRC - Charles K. ( Charlie) McNichol" <cmcnichol@drcusa.com>; "DRC - Kristy Fuentes" <kfuentes@drcusa.com>; "DRC - Mark Stafford" <MStafford@drcusa.com>  
Subject: Jails on Demand - No Public Bid Required  
Date: Saturday, August 01, 2009 7:45 PM

Sheriff Hingle,

I believe this should allay your thoughts that a lease for the trailers, which might be in excess of \$30,000 might require bidding or an RFP. Please review the attached legal opinion, which as a layman I read to indicate that as long as you do not have the right to purchase the trailers, which the lease does not agree to, you have no obligation to follow the Public Bid Law.

I would be honored to review with you further at your earliest convenience. Perhaps, your offices attorney could review with my attorney Mike Sherman above, to ensure that his opinion is correct. Thank you so much for your consideration of our product. Rji

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----- Original Message -----

From: Michael Sherman  
To: Robert J. Isakson  
Sent: Friday, July 31, 2009 10:50 AM  
Subject: No Public Bid Required

Louisiana does not have a law requiring that "pure leases" of movable property must be publicly bid. On February 8, 2001, the Attorney General stated in Opinion 00-433 its view of pure leases which, in pertinent part, states:

"This office has long taken the position that a ♦pure lease♦ of equipment need not be publicly bid since the Public Bid Law, by its language, is applicable only to ♦purchases♦, and a lease is not a purchase. However, whenever a lease contract contains an option-to- purchase provision at any point during or at the end of the lease term, that lease is potentially a purchase and therefore must be treated as a contract for purchase and is subject to the bid requirements of the law. See Attorney General Opinion Numbers 88-62, 85-229, 84-418, 83-544, 81-452 and 78-1145."

Accordingly, the DRC Prisons on Demand product, which is a large piece of equipment would be considered a corporeal movable under Louisiana law. As such, a pure lease not involving a purchase option would be exempt from the public bid law.

Please remember that the other area of concern is any potential debt assumed by a sheriff. Sheriff's may not assume debt w/out approval of the state bond commission. The DRC sample lease contains the appropriate non-appropriation clause to avoid this issue.

Attached are 3 attorney general opinions. AG 00-433 is the most recent, but AG 85-0229 is the simplest and most straight-forward.

--Mike

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